

# COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW WASHINGTON, DC  
WASHINGTON, DC 20004-2401  
TEL 202.662.6000  
FAX 202.662.6291  
WWW.COV.COM

WASHINGTON, DC  
NEW YORK  
LONDON  
BRUSSELS  
SAN FRANCISCO

JENNIFER A. JOHNSON  
TEL 202.662.5552  
FAX 202.778.5552  
JJOHNSON@COV.COM

August 15, 2005

## FILED ELECTRONICALLY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, DC 20554

**Re: DTV Channel Election: First Round Conflict Decision  
File No. BFRCT-20050815AAQ**

**New York Times Management Services  
WHO-DT, Des Moines, IA (Facility ID 66221)**

**MB Docket No. 03-15**

Dear Ms. Dortch:

Pursuant to the FCC's Public Notice of August 2, 2005 (DA-05-2233), attached hereto is a Channel Election Conflict Resolution and Interference Agreement entered into between New York Times Management Services, licensee of WHO-TV and permittee of WHO-DT, Des Moines, Iowa, and South Dakota Television License Sub, L.L.C., licensee of KSFY-TV and KSFY-DT, Sioux Falls, South Dakota.

A copy of the agreement is being sent to Nazifa Sawez via e-mail and First Class U.S. mail.

Respectfully submitted,



Jennifer A. Johnson  
Counsel for New York Times Management  
Services

Attachment

## CHANNEL ELECTION CONFLICT RESOLUTION AND INTERFERENCE AGREEMENT

To accompany FCC Form 383 – MB Docket No. 03-15

This Negotiated Conflict Resolution Agreement (“Agreement”) is entered into pursuant to the *Report and Order* in the *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, FCC 04-192, released by the Federal Communications Commission (“FCC”) on Sept. 7, 2004. Parties to this Arrangement are New York Times Management Services (“NYTMS”), licensee of WHO-TV and permittee of WHO-DT, Des Moines, IA (“WHO”) and South Dakota Television License Sub, L.L.C. (“South Dakota Television”), licensee of KSFY-TV and KSFY-DT, Sioux Falls, SD (“KSFY”).

NYTMS currently holds FCC authorizations to transmit WHO’s analog signal on channel 13 and its DTV signal on channel 19. In the FCC Form 382, NYTMS indicated an election of channel 13 for WHO’s post-DTV transition operation. On June 7, 2005, the FCC sent a letter to NYTMS stating that WHO’s post-DTV transition operation on channel 13 would create 0.3 percent impermissible interference to the baseline service population of KSFY’s “elected NTSC [channel] 13.” The letter further stated that NYTMS may resolve the conflict by, among other options, “negotiating a conflict resolution agreement with the station(s) with which [WHO is] in conflict.”

South Dakota Television currently holds FCC authorizations to transmit KSFY’s analog signal on channel 13 and its DTV signal on channel 29. In the FCC Form 382, South Dakota Television indicated an election of channel 13 for KSFY’s post-DTV transition operation.

South Dakota Television has reviewed information provided by NYTMS concerning the location and extent of interference that WHO’s proposed election would cause to KSFY. That predicted interference is outside KSFY’s Designated Market Area (“DMA”) and thus South Dakota Television believes the interference to be *de minimis*.

In accordance with the above, South Dakota Television consents to NYTMS’ election of channel 13 for WHO’s post-transition operation and the resulting interference to 0.3 percent of KSFY’s baseline service population. In turn, NYTMS consents to South Dakota Television’s election of channel 13 for KSFY’s post-DTV transition operation.

The parties affirm their belief that this Arrangement would serve the public interest and further an orderly DTV channel election process. The parties acknowledge that this Channel Election Conflict Resolution and Interference Agreement may be submitted to the FCC.

*[Remainder of this page is intentionally left blank]*

This Arrangement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**NEW YORK TIMES MANAGEMENT  
SERVICES**

**SOUTH DAKOTA TELEVISION  
LICENSE SUB, L.L.C.**

By: 

Title:

PRESIDENT & GENERAL MANAGER  
WHO-TV

Date:

8-11-05

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This Arrangement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**NEW YORK TIMES MANAGEMENT  
SERVICES**

By: \_\_\_\_\_  
Title:

Date:

**SOUTH DAKOTA TELEVISION  
LICENSE SUB, L.L.C.**

By: Kelly Manning  
Title: General Manager  
Date: 8/12/05